

United States District Court
Southern District of New York

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ELSA GULINO, MAYLING RALPH, PETER WILDS,
and NIA GREENE, on behalf of themselves and
all others similarly situated,

Plaintiffs,

- against -

THE BOARD OF EDUCATION OF THE CITY SCHOOL
DISTRICT OF THE CITY OF NEW YORK,

Defendant.

NOTICE OF APPEAL

1:96-cv-08414-KMW

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Notice is hereby given that the defendant in this action appeals to the United States Court of Appeals for the Second Circuit from the judgment of the United States District Court for the Southern District of New York (Wood, J.) entered on April 8, 2021 under Rule 54(b) of the Federal Rules of Civil Procedure as to plaintiff class member Mary Marks and titled "Judgment for Mary Marks"

(ECF No. 7658)

Dated: New York, New York
April 28, 2021

JAMES E. JOHNSON
*Corporation Counsel
of the City of New York*

By: /s/ Kevin Osowski
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To: Counsel of Record (by ECF)

SOUTHERN DISTRICT OF NEW YORK

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ELSA GULINO, MAYLING RALPH, PETER WILDS,	:
and NIA GREENE, on behalf of themselves and all others	:
similarly situated,	: 96 Civ. 8414 (KMW)
	:
Plaintiffs,	:
	:
- against -	: PROPOSED
	: JUDGMENT
THE BOARD OF EDUCATION OF THE CITY	: FOR
SCHOOL DISTRICT OF THE CITY OF NEW YORK,	: MARY MARKS
	:
Defendant.	:
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WHEREAS, the Court certified a remedy-phase class of Plaintiffs (*See Gulino v. Bd. of Educ. of the City Sch. Dist. of the City of N.Y.*, Opinion and Order, No. 96-cv-8414, [ECF No. 386]), and Mary Marks (“Claimant”) is a member of that class;

WHEREAS, the Court appointed a Special Master (*See* May 20, 2014 Order of Appointment, [ECF No. 435]; November 12, 2014 Second Amended Order of Appointment, [ECF No. 524]) to hear, among other things, demands for damages;

WHEREAS, the Special Master made, and the Court adopted, Classwide Conclusions of Law, [ECF Nos. 999, 1008];

WHEREAS, the Board of Education of the City School District of the City of New York (“BOE”) and Plaintiffs entered into, and the Court so ordered, a Stipulation of Classwide Facts & Procedures, [ECF No. 1009];

WHEREAS, the BOE and Plaintiffs entered into, and the Court so ordered, a Fifth Supplemental Stipulation Concerning Admissibility of Exhibits, which attached a Fifth Supplemental Index of Exhibits (collectively referred to as the “Classwide Exhibits”) filed with the Court, [ECF No. 5942];

WHEREAS, Plaintiffs and the BOE executed a Fifth Stipulation Regarding Expedited Class Members dated December 28, 2020, and have prepared the annexed Findings of Fact and Conclusions of Law for Mary Marks, which the Special Master recommends that the Court adopt;

WHEREAS, the Special Master recommended, and the parties agreed with the Special Master’s recommendation, that the Court certify this judgment as final and appealable pursuant to Federal Rule of Civil Procedure 54(b);

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the annexed Findings of Fact and Conclusions of Law for Mary Marks (Exhibit 1) is adopted;

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Mary Marks will have judgment against the BOE as follows:

1. Backpay in the amount of \$1,332;
2. LAST Fees in the amount of \$140;
3. Pre-judgment interest calculated to be \$297; and
4. Pension-related relief pursuant to the terms of the Court's Order dated December 17, 2018 (Pension Stipulation & Order, [ECF No. 1014]).

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Mary Marks will be entitled to the following non-monetary relief:

1. The BOE is ordered to amend its internal service, salary, payroll, and human resources systems as follows:
 - a. Incorporate the "Pension Inputs" detailed in Paragraph 4 of Exhibit 1;
 - b. Incorporate Mary Marks's counterfactual monthly service history, as listed on Exhibit A to the Stipulation Regarding Mary Marks; and
 - c. Grant Mary Marks retroactive seniority based on her counterfactual monthly service history, as described in Paragraph 4 of Exhibit 1.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Court adopts the Special Master's recommendation that this judgment be certified as final and appealable pursuant to Federal Rule of Civil Procedure 54(b) and expressly determines that there is no just reason for delay for the reasons stated in the Special Master's Report and Recommendation.

This Judgment Entry is certified and entered by the Court pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

Dated: 4/1/21

ENTERED

/s/ Kimba M. Wood